

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
EUGENE DIVISION

KILLER JOE NEVADA, LLC,

Plaintiff,

Case No. 6:15- cv-00495-ST

v.

DOE-24.20.134.179,

Defendant.

STEWART, Magistrate Judge:

On October 9, 2015, defendant (identified only by his or her subscriber assigned Internet Protocol (“IP”) address of 24.20.134.179) filed an Offer of Judgment for the sum of \$5,750.00, but without admitting liability (docket #31). After plaintiff accepted that Offer (docket #30), the court entered a Judgment in that amount (docket #32).

Pursuant to FRCP 10, 11 and 17, plaintiff has filed a Motion to Compel Disclosure of the Identity of the Defendant because the Judgment cannot be enforced if it is not paid. Defendant objects to the motion because plaintiff’s attorney agreed to accept monthly payments of \$500.00 until the balance of the Judgment is satisfied. Bahgat Decl. (docket #35), ¶¶ 7-8 & Ex. B. Plaintiff’s attorney agreed not to execute on the Judgment provided defendant makes timely payments. *Id*, ¶ 11 & Ex. B. Defendant made the first payment to plaintiff prior to the due date of November 9, 2015, and the next payment is not due until on or about December 9, 2015. *Id*,

¶¶ 9, 12 & Ex. C. Absent a missing or late payment, defendant contends that plaintiff's motion lacks merit, is an abuse of the justice system, and a blatant violation of FRCP 11 for which sanctions should be assessed against plaintiff's counsel.

This case presents an unusual situation. Although plaintiff has a Judgment, it is not yet fully paid and is not enforceable without identifying defendant by more than an IP address. At this point, the Judgment fails to provide plaintiff with any means of securing defendant's promised monthly payments since it cannot be filed with state court in order to place a lien against any real property or garnish wages. Plaintiff has offered an alternative to address its lack of security through a private promissory note, separate settlement agreement or other means, all of which defendant has rejected.

Defendant is correct that it is not necessary to identify him or her until plaintiff needs to enforce the Judgment. However, if defendant's counsel withdraws or if defendant fails to cooperate, plaintiff faces the prospect of being unable to identify defendant at a later date when and if needed. Therefore, defendant must now disclose his or her identity, but under seal to protect his or her privacy.

ORDER

Plaintiff's Motion to Compel Disclosure of the Identity of the Defendant (docket #33) is GRANTED. On or before December 8, 2015, defendant shall file under seal his or her identity, including full name and current address. Plaintiff shall not disclose or use defendant's identity in any way unless the court enters an order unsealing defendant's identity to allow execution on any unpaid portion of the Judgment.

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It is further ordered, as agreed by the parties, that defendant shall pay \$500.00 to plaintiff on or before December 9, 2015, and \$500.00 on the ninth day of every month thereafter until the Judgment is paid in full.

DATED December 1, 2015.

s/ Janice M. Stewart
Janice M. Stewart
United States Magistrate Judge